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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,497	08/08/2001	Laurence Dubreil	045636-5044	5555

9629            7590            10/18/2002  
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EXAMINER
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TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
1761	10

DATE MAILED: 10/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T-D

<b>Office Action Summary</b>	Application No. <b>09/831,497</b>	Applicant(s) <b>Dubreil et al</b>	
	Examiner <b>Lien Tran</b>	Art Unit <b>1761</b>	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
<b>Period for Reply</b> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<b>Status</b> <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jul 25, 2002</u></p> <p>2a) <input checked="" type="checkbox"/> This action is FINAL.      2b) <input type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>			
<b>Disposition of Claims</b> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>15, 16, and 21-34</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>15, 16, and 21-34</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>			
<b>Application Papers</b> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
<b>Priority under 35 U.S.C. §§ 119 and 120</b> <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Certified copies of the priority documents have been received.</li> <li>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</li> <li>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> </ol>			
<p>*See the attached detailed Office action for a list of the certified copies not received.</p> <p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p> <p>a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
<b>Attachment(s)</b> <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____</p> <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p>			

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1. Claims 15-16 and 21-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubreil et al for the same reason set forth in paragraph 6 of the previous office action.

2. Claims 31-34 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Both claims 31 and 33 are directed to method of making biscuit dough in which puroindoline is added; however, the result obtained by adding the puroindoline is conflicting. While the same amount of puroindoline is added, claim 31 recites the amount is added to reduce the density and claim 33 recites the amount is added to increase the density. The specification discloses the result obtained depends on the type of biscuit, but the claims recite generic biscuit dough. Thus, the claims are not enabling because one skilled in the art would not know what result will be obtained.

3. Claims 31-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 31 and 33 are confusing because it is not clear what applicant is trying to claimed. While the same amount of puroindoline is added to the same biscuit dough, the result obtained is directly opposite. It is not clear what is intended.

4. The new 112 rejections are necessitated by amendment.

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5. In the response filed July 25, 2002, applicant argues while Dubreil et al do teach adding puroindolines to wheat flour in bread making, the effects of puroindolines are highly unpredictable and therefore would not have been able to predict the effect of puroindolines on biscuit dough. While Dubreil et al show the effects of puroindolines on bread are inconclusive, they do conclude that low amounts of puroindolines can induce important changes in the structure of grain crumb and bread volumes. They state “these puroindoline concentrations are equal to or even lower than those normally used for synthetic surfactants, so that puroindolines are at least promising as natural additives”. Thus, Dubreil et al provide the motivation for one skilled in the art to use puroindoline in baked product because natural additives are away preferred over synthetic or chemical additives. While the article is directed to bread, both bread and biscuit are baked products and biscuit is actually a type of quick bread because it is leavened by chemical leaveners, not by yeast. Many of the ingredients such as flour, salt, sugar, shortening, milk are found both in bread and biscuit. Thus, a teaching of puroindolines as a natural additives in bread would induce one skilled in the art to also use it in biscuit product because both are bread products and contain common basic ingredients. When puroindoline is used, the same effect as claimed will be obtained because the same additive is used.

6. Applicant's arguments filed July 25, 2002 have been fully considered but they are not persuasive.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

October 16, 2002

*Lien Tran*  
LIEN TRAN  
PRIMARY EXAMINER  
Group 1702